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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/481,243	01/11/2000	James J. Fallon	8011-8	5405

7590

06/26/2002

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EXAMINER	
MAI, RIJUE	
ART UNIT	PAPER NUMBER
2182	

DATE MAILED: 06/26/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/481,243

Applicant(s)
Fallon

Examiner
Rijue Mai

Art Unit
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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above, claim(s) 10-15 and 25-30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 16-19 is/are rejected.
- 7) ☒ Claim(s) 5-9 and 20-24 is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Jan 11, 2000 is/are a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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DETAILED ACTION

1. Claims 1-30 are presented for examination.

Election/Restriction

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-9 and 16-24 , drawn to input/output data modification for data compression, classified in class 710, subclass 68.
 - II. Claims 10-15 and 25-30, drawn to computer to computer data modifying for compressing and decompressing, classified in class 709, subclass 247.
3. The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as compressing the digital data stream and storing the data in the target storage. See MPEP § 806.05(d).
4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

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5. During a telephone conversation with Mr Frank DeRosa on June 18, 2002, a provisional election was made without traverse to prosecute the invention of I, claims 1-9 and 16-24, Claims 10-15 and 25-30 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

6. The inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1- 4 and 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tanaka US pat. 5,832,126 in view of Del Castillo et al. US pat. 6,317,714 (hereinafter Castillo).

As per claims 1 and 16, Tanaka teaches a method and a program storage device readable

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by machine, tangibly embodying a program of instructions executable by the machine to perform method steps for providing accelerated data storage (see abstract, col 1, lines 65-67, col 3, lines 55-65, Fig 1), said method steps comprising: receiving a digital data stream (see col 4, lines 5-7); compressing the digital data stream at a compressing rate that increases the effective data storage rate of the target storage device (see col 4, lines 5-8, col 7, lines 17-22); and storing the compressed digital data stream in the target storage device (see col 4, lines 7-9, col 7, lines 56-58, col 8, lines 36-38).

Tanaka does not specifically state that “ an input data transmission rate which is greater than a data storage rate of a target storage device” as claimed.

Castillo teaches a controller and associated mechanical characters operable for continuously performing received control data while engaging in bidirectional communications over a single communications channel wherein the device receives the data at the transfer rate, stores the data into the data buffer and expends data from the data buffer at a consumption rate which is less than the transfer rate, that is the transfer rate is greater than the data consumption rate.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to allow Tanaka's system to make use of Castillo's teachings to include data transmission rate which is greater than a data storage rate of a target storage device, because it ensures the system is sufficient to provide a continuous and optimal data output transmission rate, thereby achieving the efficient function of reducing the time required to store in a storage

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device and cost effectively to increase system reliability and data transfers in a timely fashion . Accordingly, such a system design fashion minimizes the software complexity, and allows the greatest use of the higher speed hardware and minimizes the use of slower speed software to allow overall improved performance of the system bus architecture. Furthermore, it also reduces bufferring in the data path between a device and the main memory, thereby to effectuate the simultaneous transmission of the multiple forms of information.

Referring to claims 2-4, and 17-19, Tanaka further teaches the method and the program storage device, wherein the compression rate is at least equal to the ratio of the input data transmission rate to the data storage rate so as to provide continuous storage of the input digital data stream at the input data transmission rate (see col 7, lines 31-40); wherein the instructions for performing the step of compressing comprise instructions for performing lossy data compression (see col 8, lines 20-25, line 46-51, Fig 7, ele. 50); instructions for performing lossless and lossy data compression (see col 9, lines 8-17, col 10, lines 1-2, lines 39-45, Figs 5 and 7).

Allowable Subject Matter

9. Claims 5-9 and 20-24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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10. The following is the statement of the reasons for the indication of allowable subject matter:

The prior art fails to teach or suggest a program storage device and method in claims 1 and 16, which further comprising instructions for performing the steps of: reading a first parameter that is indicative of a compression type to be applied to the input digital data stream; and selecting at least one allowable encoder based on the first parameter as claims 5-9 and 20-24.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Rijue Mai** whose telephone number is (703) 308-7098

The examiner can normally be reached on Monday-Thursday from 7:00 AM to 4:30 PM, and alternate Friday Eastern Time. The examiner can also be E-mailed at **Mai.Rijue@uspto.gov**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Jeffrey Gaffin, can be reached on (703) 308-3301.

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13. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

Any response to this action should be mailed to:

Assistant Commissioner for Patents

Washington, D.C. 20231

Or faxed to:

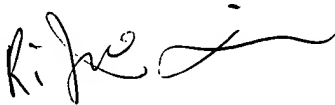
(703) 746-7239, (for formal communications intended for entry)

Or:

(703) 746-7240, (for informal or draft communications, please label

“PROPOSED” or “DRAFT”)

EXAMINER

A handwritten signature in black ink, appearing to read 'Rijue Mai', with a stylized flourish at the end.

Rijue Mai

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June 25, 2002